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## SENATE BILL No. 433

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-20.6; IC 6-1.1-21-3; IC 6-1.1-21-4.

**Synopsis:** Farmland credits. Establishes a farmland credit for farms that are actively farmed by an individual or by related individuals.

**Effective:** Upon passage.

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January 12, 2004, read first time and referred to Committee on Finance.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## SENATE BILL No. 433

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-1.1-20.6 IS ADDED TO THE INDIANA CODE  
2       AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]:

4       **Chapter 20.6 Farmland Credit**

5       **Sec. 1. This chapter applies to an area of land that meets all the**  
6       **following criteria:**

7           **(1) Consists of one (1) or more contiguous tracts in the same**  
8           **county, disregarding any intervening public ways.**

9           **(2) Includes agricultural land.**

10          **(3) Contains total farm acreage of at least ten (10) acres.**

11          **(4) Is at least fifty percent (50%) devoted to farm production**  
12          **activities on a regular, substantial, and continuing basis**  
13          **during the year immediately preceding an assessment date.**

14          **(5) Is actively farmed during the year immediately preceding**  
15          **an assessment date by eligible individuals.**

16       **Sec. 2. As used in this chapter, "actively farm" means the**  
17       **following:**



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(1) Personal participation on a regular, substantial, and continuing basis, on land that is not leased to another person, in any of the following:

(A) Inspecting the farm production activities of the farm operation periodically, furnishing at least fifty percent (50%) of the value of the tools, and paying at least fifty percent (50%) of the direct cost of production.

(B) Regularly and frequently making or taking an important part in making management decisions substantially contributing to or affecting the success of the farm production activities.

(C) Performing physical work that significantly contributes to the farm production activities.

(2) Leasing the land to another person if the individuals who engaged in the activities described in subdivision (1) on the leased land are eligible individuals described in section 6(c) of this chapter.

Sec. 3. As used in this chapter, "agricultural land" means land assessed as agricultural land under IC 6-1.1-4-13.

Sec. 4. As used in this chapter, "application" refers to an application under this chapter.

Sec. 5. As used in this chapter, "eligible farm" refers to land described in section 1 of this chapter.

Sec. 6. (a) As used in this chapter, "eligible individuals" means any combination of individuals described in subsection (b) or (c).

(b) The following owners are eligible individuals:

(1) An individual who owns at least a fifty-one percent (51%) ownership interest in land that is the subject of an application.

(2) Related individuals who together:

(A) own at least a fifty-one percent (51%) ownership interest in the land that is the subject of an application; or

(B) have at least fifty-one percent (51%) of the ownership and control rights for an entity that has a one hundred percent (100%) ownership interest in the land that is the subject of an application;

or will qualify under clause (A) or (B) after any tangible or intangible interest of a deceased related individual is distributed from the deceased related individual's estate.

(c) For purposes of leased agricultural land, the following are eligible individuals:

(1) An individual who has at least a fifty-one percent (51%) contract interest in a lease of land that is the subject of an

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1 application; or

2 (2) related individuals who together:

- 3 (A) have at least a fifty-one percent (51%) contract interest  
 4 in the lease of land that is the subject of an application; or  
 5 (B) have at least fifty-one percent (51%) of the ownership  
 6 and control rights for an entity that has a one hundred  
 7 percent (100%) contract interest in a lease of land that is  
 8 the subject of an application.

9 Sec. 7. As used in this chapter, "farm production activities"  
 10 means any combination of the following:

- 11 (1) Production of crops, fruits, or timber.  
 12 (2) Raising livestock.  
 13 (3) If the land is tillable land, participation in a federal set  
 14 aside program of the United States Department of Agriculture  
 15 that withdraws land from production.  
 16 (4) If the land is tillable land, participation in a regular  
 17 practice of allowing land to be out of production for the  
 18 purpose of restoring nutrients to the soil or reversing the  
 19 effects of overgrazing.

20 Sec. 8. As used in this chapter, "farmland credit" refers to a  
 21 credit granted under this chapter.

22 Sec. 9. As used in this chapter, "maximum eligible acreage"  
 23 means two hundred fifty (250) acres.

24 Sec. 10. As used in this chapter, "related individuals" means  
 25 individuals who are related to each other as:

- 26 (1) spouse;  
 27 (2) child;  
 28 (3) stepchild;  
 29 (4) grandchild;  
 30 (5) great grandchild;  
 31 (6) parent;  
 32 (7) grandparent;  
 33 (8) great grandparent;  
 34 (9) brother;  
 35 (10) sister;  
 36 (11) uncle;  
 37 (12) aunt;  
 38 (13) niece;  
 39 (14) nephew; or  
 40 (15) spouse of an individual described in subdivisions (1)  
 41 through (14).  
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Sec. 11. As used in this chapter, "tax liability" has the meaning

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set forth in IC 6-1.1-21-5.

Sec. 12. As used in this chapter, "tillable land" means tillable land as determined under the rules of the department of local government finance.

Sec. 13. As used in this chapter, "total farm acreage" means total farm acreage as determined under this rules adopted by the department of local government finance for the assessment of agricultural land.

Sec 14. The owners of an eligible tract are entitled to a farmland credit against the tax liability imposed on an eligible farm.

Sec. 15. The amount of the farmland credit is equal to the amount determined under STEP SIX of the following formula:

STEP ONE: Determine the assessed valuation of the total farm acreage in the eligible farm.

STEP TWO: Divide the STEP ONE amount by the total farm acreage in the eligible farm.

STEP THREE: Multiply the STEP TWO amount by the lesser of the following:

(A) The total farm acreage in the eligible farm.

(B) The maximum eligible acreage.

STEP FOUR: Determine the statewide farmland credit amount certified under section 26 of this chapter.

STEP FIVE: Multiply the STEP THREE amount by the STEP FOUR amount.

STEP SIX: Determine the lesser of the following:

(A) The owner's tax liability for the eligible farm.

(B) The STEP FIVE amount.

Sec. 16. The county auditor shall apply the farmland credit to the tracts in an eligible farm in the manner prescribed by the department of local government finance.

Sec. 17. An eligible farm that would otherwise qualify for a farmland credit under this chapter is ineligible if:

(1) any owner is an owner of another eligible farm that is granted a farmland credit under this chapter; or

(2) any shareholder, partner, member, or beneficiary of an owner is:

(A) an owner; or

(B) a shareholder, partner, member, or beneficiary of an entity that is an owner;

of any other eligible farm that is granted a farmland credit under this chapter.

Sec. 18. The owners of an eligible farm, or an owner acting as

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the agent of all of the owners of an eligible farm, that desire to claim the farmland credit provided by this chapter must file a certified application, under penalty of perjury, on forms and in the manner prescribed by the department of local government finance, with the county auditor of the county in which the eligible farm is located.

**Sec. 19. The application must include the following information:**

- (1) The parcel numbers or key numbers for the eligible farm.
- (2) The name of the townships in which the eligible farm is located.
- (3) The total farm acreage in the eligible farm.
- (4) The names of the owners of the eligible farm.
- (5) The names of each shareholder, partner, member, or beneficiary of any entity that is an owner of the eligible farm.
- (6) Whether:
  - (A) an owner;
  - (B) a shareholder, partner, member, or beneficiary of the owner; or
  - (C) any entity in which a shareholder, partner, member, or beneficiary of the owner is a shareholder, partner, member, or beneficiary;
 has applied for or been granted a farmland credit for another eligible farm.
- (7) Any other information required by the department of local government finance.

**Sec. 20. A statement filed before May 11 in a year:**

- (1) first applies to taxes first due and payable in the immediately succeeding year; and
- (2) unless the land that is the subject of the farmland credit ceases to qualify for the farmland credit, each year thereafter.

**Sec. 21. The county auditor shall approve farmland credits for eligible farms that qualify for a farmland credit under this chapter.**

**Sec. 22. As soon as practicable after an application is approved, the county auditor shall submit to the department of local government, in the form required by the department of local government, the information concerning an application that is prescribed by the department of local government finance.**

**Sec. 23. The department of local government finance shall establish a program to assist county auditors in determining whether eligible farms are disqualified under section 17 of this chapter from receiving a farmland credit.**

**Sec. 24. If:**

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(1) land ceases in any part to qualify for a farmland credit under this chapter;

(2) there is a change in:

(A) the ownership of the land that is the subject of a farmland credit; or

(B) the ownership of an entity that is an owner of the land that is the subject of a farmland credit; or

(3) ownership of an individual who is receiving the farmland credit provided by this chapter changes the use of the individual's real property or structures, buildings, and improvements;

the owners, after the change, shall notify the county auditor of the county where the eligible farm is located of the changes, in the form prescribed by the department of local government finance, not more than sixty (60) days after the date of the change. If the notice is not filed as required by this section, the owners of the land that is the subject of the farmland credit are liable for the amount of any farmland credit that is applied to the tax liability imposed on the land after the change.

**Sec. 25.** Before April 1 of each year containing an assessment date, the county auditor of each county shall certify to the department of local government finance the amount of the assessed valuation on the assessment date that qualifies for the farmland credit.

**Sec. 26.** Not later than August 1 of each year containing an assessment date, the department of local government finance shall certify the statewide farmland credit amount determined under STEP TWO of the following formula that will apply to property taxes imposed for the assessment date:

**STEP ONE:** Determine the sum of the assessed valuation certified under section 27 of this chapter, as adjusted (if necessary) by the department of local government finance to conform with the requirements of this chapter.

**STEP TWO:** Divide ten million dollars (\$10,000,000) by the STEP ONE amount.

**Sec. 27.** Before February 1 of each year, a county auditor shall certify to the department of local government finance the amount of farmland credits allowed in the county for tax liability first due and payable in the year.

SECTION 2. IC 6-1.1-21-3, AS AMENDED BY P.L.192-2002(ss), SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The department, with the assistance of

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the auditor of state and the department of local government finance, shall determine an amount equal to the eligible property tax replacement amount, which is the estimated property tax replacement.

(b) The department of local government finance shall certify to the department the amount of:

**(1) farmland credits provided under IC 6-1.1-20.6 that are allowed by the county for the particular calendar year; and**

**(2) homestead credits provided under IC 6-1.1-20.9 which are allowed by the county for the particular calendar year.**

(c) If there are one (1) or more taxing districts in the county that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter, the department of local government finance shall estimate an additional distribution for the county in the same report required under subsection (a). This additional distribution equals the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Estimate that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the estimated property tax replacement amount attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(d) The sum of the amounts determined under subsections (a) through (c) is the particular county's estimated distribution for the calendar year.

SECTION 3. IC 6-1.1-21-4, AS AMENDED BY P.L.245-2003, SECTION 19, AND AS AMENDED BY P.L.264-2003, SECTION 12, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

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(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5; **plus**

**(4) the total amount of farmland credits that are provided under IC 6-1.1-20.6 and allowed by each county for that year.**

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half ( $\frac{1}{2}$ ) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half ( $\frac{1}{2}$ ) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract

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1 filed with the auditor of state, adjusted for postabstract adjustments  
 2 included in the December settlement sheet for the year, and such  
 3 additional information as the department may require.

4 (d) All distributions provided for in this section shall be made on  
 5 warrants issued by the auditor of state drawn on the treasurer of state.  
 6 If the amounts allocated by the department from the property tax  
 7 replacement fund exceed in the aggregate the balance of money in the  
 8 fund, then the amount of the deficiency shall be transferred from the  
 9 state general fund to the property tax replacement fund, and the auditor  
 10 of state shall issue a warrant to the treasurer of state ordering the  
 11 payment of that amount. However, any amount transferred under this  
 12 section from the general fund to the property tax replacement fund  
 13 shall, as soon as funds are available in the property tax replacement  
 14 fund, be retransferred from the property tax replacement fund to the  
 15 state general fund, and the auditor of state shall issue a warrant to the  
 16 treasurer of state ordering the replacement of that amount.

17 (e) Except as provided in subsection (I), the department shall not  
 18 distribute under subsection (b) and section 10 of this chapter the money  
 19 attributable to the county's property reassessment fund if:

20 (1) by the date the distribution is scheduled to be made, ~~(1)~~ the  
 21 county auditor has not sent a certified statement required to be  
 22 sent by that date under IC 6-1.1-17-1 to the department of local  
 23 government finance; ~~or~~

24 (2) by the deadline under IC 36-2-9-20, the county auditor has  
 25 not transmitted data as required under that section; **or**

26 ~~(2)~~ **(3) the county assessor has not forwarded to the department**  
 27 **of local government finance the duplicate copies of all approved**  
 28 **exemption applications required to be forwarded by that date**  
 29 **under IC 6-1.1-11-8(a).**

30 (f) Except as provided in subsection (I), if the elected township  
 31 assessors in the county, the elected township assessors and the county  
 32 assessor, or the county assessor has not transmitted to the department  
 33 of local government finance by October 1 of the year in which the  
 34 distribution is scheduled to be made the data for all townships in the  
 35 county required to be transmitted under IC 6-1.1-4-25(b), the state  
 36 board or the department shall not distribute under subsection (b) and  
 37 section 10 of this chapter a part of the money attributable to the  
 38 county's property reassessment fund. The portion not distributed is the  
 39 amount that bears the same proportion to the total potential distribution  
 40 as the number of townships in the county for which data was not  
 41 transmitted by ~~August 1~~ **October 1** as described in this section bears to  
 42 the total number of townships in the county.

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(g) Money not distributed ~~under subsection (e)~~ for the reasons stated in subsection (e)(1) and (e)(2) shall be distributed to the county when:

(1) the county auditor sends to the department of local government finance the certified statement required to be sent under IC 6-1.1-17-1; and

(2) the county assessor forwards to the department of local government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a);

with respect to which the failure to send or forward resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(I) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

(1) the failure of:

(A) a county auditor to send a certified statement; or

(B) a county assessor to forward copies of all approved exemption applications;

as described in subsection (e); or

(2) the failure of an official to transmit data as described in subsection (f);

is justified by unusual circumstances.

**SECTION 4. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 and IC 6-1.1-20.9, as added by this act, and P.L.224-2003, SECTION 1 apply throughout this SECTION.**

**(b) IC 6-1.1-20.6, as added by this act, and IC 6-1.1-21-3 and IC 6-1.1-21-4, both as amended by this act, apply only to property taxes first due and payable after December 31, 2003.**

**(c) The department of local government finance shall prescribe application forms and make them available to county auditors and the public as soon as practicable after the passage of this act.**

**(d) Notwithstanding IC 6-1.1-20.6-11, as added by this act, an application of the owners of an eligible farm that is filed before February 1, 2004, first applies to property taxes first due and payable in 2004 for levies that became a lien on an eligible farm on**

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1 March 1, 2003.

2 (e) Notwithstanding IC 6-1.1-20.6-25, IC 6-1.1-20.6-26, and  
3 IC 6-1.1-20.6-27, all as added by this act, the actions required  
4 under these provisions shall be completed for property taxes first  
5 due and payable in 2004 before the date prescribed by the  
6 department of local government finance.

7 (f) Notwithstanding IC 6-1.1-21-3 and IC 6-1.1-21-4, both as  
8 amended by this act, and IC 6-1.1-21-10, farmland credit  
9 replacement amounts shall be distributed in equal installments  
10 after July 1, 2004, for farmland credits granted for property taxes  
11 first due and payable in 2004 according to the distribution schedule  
12 in IC 6-1.1-21-10.

13 (g) There is appropriated to the property tax replacement board  
14 (IC 6-1.1-21) thirteen million three hundred thirty-three thousand  
15 three hundred dollars (\$13,333,300) from the property tax  
16 replacement fund for its use for total operating expense to  
17 distribute farmland credit replacement amounts for farmland  
18 credits applied against tax liability imposed for property taxes first  
19 due and payable in 2004 or 2005, for the state fiscal year beginning  
20 July 1, 2004, and ending June 30, 2005. Adjustments may be made  
21 to this appropriation under IC 6-1.1-21-4, as amended by this act.  
22 The appropriation made by this subsection is supplemental to all  
23 other appropriations made to the property tax replacement board  
24 in P.L.224-2003, SECTION 10. For purposes of applying  
25 IC 6-1.1-20.6-26, as added by this act, to farmland credits for  
26 property taxes first due and payable in calendar year 2004, the  
27 amount appropriated under this subsection is ten million dollars  
28 (\$10,000,000). The remainder of the appropriation made by this  
29 subsection is for the first two (2) distributions required under  
30 IC 6-1.1-21-10 for property taxes first due and payable in calendar  
31 year 2005.

32 (h) The department of local government finance may adopt  
33 temporary rules in the manner provided in IC 4-22-2-37.1 for the  
34 adoption of emergency rules to implement IC 6-1.1-20.6, as added  
35 by this act, and this SECTION. A temporary rule adopted under  
36 this SECTION expires on the earlier of the following:

- 37 (1) The date that another temporary rule is adopted under  
38 this SECTION or a permanent rule is adopted under  
39 IC 4-22-2 to supercede a previously adopted temporary rule.  
40 (2) July 1, 2005.

41 SECTION 5. An emergency is declared for this act.

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